



LITERATURE AN EFFECTIVE PEDAGOGICAL TOOL FOR STUDY OF LAW

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ABSTRACT

"Each day that we live, we're taking in new information, ideas, concepts, experiences, and sensations. We need to consciously stand guard at the doors of our minds to make sure that whatever we're allowing to enter will cause our lives to be enriched, that the experiences we pursue will add to our stockpile of possibility."

~ Anthony Robbins

Literature and law though being separate branches of social sciences share some proximity and amalgamate in objectives. Literature tends towards abstraction, creativity, variety in description and narration and is abundant in genres. Law on the other hand tends towards clarity, logical interpretation scope, definite pattern and style of drafting and is varied in branches. Literature study is very important for a student of law in many facets. Literature has often been used as an effective tool for the administration of justice and drafting judgements and pleas. Many judges and lawyers quote from literature for driving home the point.

Literature as a branch of study and literature as a pedagogical tool for a student of law may have different dimension and require different treatment. Teachers have practised various experiments while amalgamating literature as a pedagogical tool for the study of law. The students are given projects to analyse the use of literary quotes in judgements and other legal drafts, storytelling and narrative techniques are used for enhancing a lawyer's skill of legal narratology, poem creation to express feelings and ideas in most subtle way possible and understand the use of apt words and expression in writing, conversion of real cases into stories and detective stories into cases with legalities for honing drafting skills and imagination, comparing two or more stories to find parallels which is the work of lawyer to find parallels from various cases etc.

The research paper tries to study the use of literature as a pedagogical tool to facilitate the study of law and how it can hone various skills of a lawyer. The paper also tries to deal with the limitations of the said pedagogical tool and how to deal with them.

KEY WORDS: 'literature', 'study of literature', 'law', 'law and literature', 'pedagogy', 'pedagogical tool'.

INTRODUCTION

Legal education has seen scope of combining philosophy, theory and practice in effective manner. A student of law has to be more equipped intellectually than any other discipline owing to the lasting impact his work makes on wider strata of society. In simple terms, an error committed by an engineer will effect a particular machine or organization only, an error committed by a doctor will effect a particular patient only but an error committed by a lawyer or judge will impact society at large or posterity. A wrong law or judgement will create more havoc than any of the viruses and for a longer period. Hence, a student of law has to be more insightful, vigilant and intellectually sound. The combination of philosophy, humanities, language, management, law, cases etc. will make the student gain the desired intellect and insight. Various activities must be given importance in a law school. Activities like literature, skill development; debating, moot, field visits, PIL and RTI clubs etc. will give tremendous exposure and experience to students.

"The broad goal of clinical pedagogy is to expose students to and encourage them to deconstruct the work and role of the lawyer, and the lawyering process. This goal has both a skills component and a professional development/values component". [1]

Let us take hypothetical example of an activity called Public Interest Litigation (PIL). If a group of students during their law education files a PIL. They have to do a lot of research about law, facts, problems, realities etc., they also have to meet experts, lawyers, government representatives initially. This will bridge square of philosophy, language, law and practice during their study itself. Moreover, the tremendous self-development that will undergo is beyond description and the lasting impact they may make on society or the stakeholders of the society is commendable. Such activity that is used as a pedagogical tool will enable students to understand human life and psyche at microcosm level, society and societal problems at macrocosm level, learn drafting skills, argumentative and presentation skills and facilitate them in becoming societal leaders.

LITERATURE AND LAW

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Literature and law share good amount of proximity in dealing with human predicament, situation, development of civilization and societal reforms. As both

highlight human life, striving to make it better and society a more purposeful place to live in; one heralding and creating an abstract world and the other canalizing it through concrete and well defined structure be it in the form of rules or regulations, they can be studied in the light of this proximity.

Literature helps in understanding of law and cases because it teaches a certain way of thinking; a way that is synthetic, creative, dealing with ambiguity and ambivalence. It also provides opportunity of foraying into new dimensions of thoughts pertaining to law, justice etc. and examine it from humanistic and philosophical perspective.

Literature, be it prose fiction or poetry has intrinsic value as means of discussing legal topics as it has the ability to stimulate critical thoughts and theories, relating one to others, political and social context and ultimately facilitating learning and understanding of law to students and legal scholars.

Moreover, literature also stresses on the rhetorical techniques and opportunities to be used as a way of critiquing social institutions and legal norms. It provides profound understanding of administration of law and justice, it helps to understand various aspects of society and life before experiencing himself, it also provides rich source of quotations. Literary sensibilities facilitate judges to have better opinions and advocates to present their case more effectively.

"Literature, as the most human of the humane arts, could teach the law "humanistic judgment". First, it could remind us of the rich humanity that lay behind case reports and judicial decisions, thus serving to chasten the mechanistic rigor of the law. Second, it could offer reflections—brought vividly to life through narrative—on the human meaning of concepts central to law: criminality, punishment, justice. Third, it could offer models of rhetorical excellence, reuniting legal practice with the great tradition of forensic oratory, turning law students into rhetorical artists, and promoting connoisseurship of the legal opinion as masterpiece. At the centre of this humanist vision was the notion that literature could somehow bring the real to law." [2]

LITERATURE AS A PEDAGOGICAL TOOL

A teacher of professional education is concerned not only about the sonorous philosophy and free-flowing theories but also how to develop pedagogical tool for facilitating study and equipping the students with necessary skills and mind-set. The richness of literature facilitates a student of law in understanding aspects related to human life, culture and traditions, various predicaments and dilemmas and broadness in jurisprudential philosophy. An expert teacher can lead the class to discussion on various above mentioned aspects and develop the thinking pro-

cess of students after reading to literary texts. This is an excellent practice for intensive and extensive philosophical thought process and deliberation for lawyers and social engineers. Literature is the best medium to study man, society, contemporary society, development and degradation in society and civilization and understanding life with all its fineries and faults, intensities and extremities. One can feel the experience of years and wisdom of ages among those pages of literary texts. This type of knowledge is very pertinent and it is the founding of legal wisdom for any student of law or social leader. "Education in law is close to education in life. As such, law is learnt better when the learning is contextualized in society amidst all its diversities and challenges". [3]

The challenge that we are dealing here is not just use of literary texts as raw material for various thoughts and philosophies that ignites debates but use of literature as a tool for practical purpose in honing various skills required for a lawyer. Literature has to cease being just a classic compilation for debates but play role of a tool in the hand of a teacher in chiselling students to excellence. Let us deliberate upon the use of literature as a pedagogical tool in search of excellence for legal education.

Literary Quotes: Literature has provided ample of raw material for wonderful and effective quotes. These quotes are in abundance in various judgements and pleas. The topics of quotes range from law, life, justice, mercy, morality, womanhood, responsibility etc. Name a word and there will be a quote on it. The teacher can use this tool in two ways. The quotes on topics related to law can be discussed in the class with current and relevant examples from society and judiciary. The teacher can also assign student to search for use of literary quotes in judgements. This is an excellent exercise for developing the research skills of students, understanding the use of words, efficacy of literature in administering justice or developing a legal theory. A student has to search for judgement enabling them to use various platforms, read judgement and understand it. Reading judgement automatically develops his/her language skills, drafting skills, technicality of law and in-depth understanding of the cases. These judgements are from various fields like criminal law, corporate law, constitutional law etc. The students who have not studied all core law subjects or have been in the midst of court proceedings get the advantage of touch and feel of law cases and judgements. This arouses their curiosity and motivates them to read more and study varied laws. On a broader and perspective, they realize the impact of law and judgements on society at large. This compilation enables them to understand law, judgements, cases and society they are going to engineer. This project gives their first spark of systematic thought process and the rise of wisdom.

"I propose that we can improve our understanding of law by comparing legal interpretation with interpretation in other fields of knowledge, particularly literature." [4]

However, this tool has a limitation. The students may get confused in the technical nitty-gritty of law and amalgamation of various laws. Time management is one more limitation to reckon. There are thousands of cases where literary quotes can be found and some of the cases may be very complicated in terms of law that a student cannot comprehend easily. A teacher has to play the role of a facilitator and clarity giver here. The teacher can ask them to focus on the literary quotes and its efficacy on the overall judgement. The complication of the law can be dealt with as the students grow in their education or profession.

Poetry reading and writing: Everyone is not a born poet but everyone has the fine and sensitive elements of a poet in self. The human elements like sensitivity, sensibility, language etc. are inborn and if honed potentially, miracles happen. Practical things like reading poems on topics related to law and writing poems on the same subjects are effective experimental tools. As Lycurgus said 'The laws because of their brevity do not teach but merely order what one should do; the poets on the other hand by representing human life and selecting the noblest deeds persuade men by using both reason and clear examples'. This project can become a landmark experiment of creativity, developing thought and sensitizing. The students read a lot of poetry, jot down the points for their writing and express their sentiments, ideas, fears and concerns about law and justice in form of poetry. The students do lot of introspection about the key themes, their own vision and ideas before writing poems. They can understand the rule of law and justice better and express still better with the form of poetry. They also have to do language study or consult for using language, words to make their poems effective. Sensibility is developed and reflected in the works of these future torchbearers of law and justice and they start forming their professional and individual vision. They can also understand the relationship among society, human predicament and psychology and the law with tremendous insight. "... law and poetry share important relations between them and exert mutual influence on each other. We have seen that law and poetry share language as their working medium; language shapes the chaos of experience in law and poetry; and law and poetry are products of human ingenuity and imagination.... law and poetry differ from one another as well. Law tends more toward the scientific dimension of human thought; poetry tends more toward man's artistic side. Law is often an act of power; poetry makes no claim on power." [5]

Poetry reading has its own charm and magic on any reader but writing may be daunting to any person without poetic bent of mind. It is also construed that writing poetry is not everybody's cup of tea and poets are born. The musical effect,

the finery of sentiments expressed, the apt use of words etc. make poetry writing a challenging proposition. The students may be reluctant to express in poetic form. Reading a few poems and facilitating them to write small couplets or a stanza to begin with can enable those students to take initial baby steps in poetry writing.

Storytelling: Stories and storytelling has been found highly effective tool both in education and training. Today teachers, motivational speakers, management trainers and leaders use storytelling tool a lot to motivate, inspire, enhance skills and spark new ideas and debates. However, this tool is not a new invention. Since the days of Aesop to Panchtantra, the storytelling has been used for various morals, lessons in leadership and governance and inculcating wisdom among pupils. Stories ranging from simple fables to mythology and detective stories have tremendous scope of variety of moral and cultural values, psychological prudence and leadership wisdom. Stories can create drive the thought process and debates of students of law and facilitate critical thinking and problem solving. Sharp and clear critical thinking and an edge for problem solving are the two skills any lawyer must develop and hone and if this starts during his tenure of legal education, it is best. We must create learning environments that let students draw on the internal resources that brought them to college in the first place. As instructors, we must focus our attention on creating an environment where students can gain knowledge and skills in critical thinking and problem solving in their chosen areas of learning. [5]

One effective way of using stories as a pedagogical tool is to give set of stories is given to the students and after the preliminary discussion they are asked to find out parallels and contrast among the stories. This enables them to view a situation or predicament from various angles and ultimately helps when they are dealing with legal cases or suits. It helps in representing their case in a different light and citing points from similar cases or precedents to make his case stronger and more convincing. Haven't the criminal lawyers and judges formed a liking and habit of reading detective stories that give insight into the mysteries and micro points that unravel the mysteries? It has always them rendered the sharp edge to decipher the mysteries.

Reading stories also enables a student of law in understanding narration and description techniques and styles. A good lawyer must be able to narrate and describe in drafting and person before the court or client. Legal narratology is no less challenging for an advocate putting up his case before the court. The narration skills encompass the language, description, sequence of events, emphasis, explanation etc. and storytelling or study of stories help an advocate in effectively using narration and narrations techniques. An advocate can understand different aspects like the effective beginning, flow of the narration and a concluding end by studying stories. For example detective stories are effectively narrated with all the aspects of intention to the culmination of the event. Narrative plays an important role in advocacy wherein the fiction element with technique is very important. "It is why in a trial the plaintiff and the defendant each tells a story- a translation of their "real" or raw stories into the narrative and rhetorical forms authorized by law- and the jury chooses the one it likes better." [6] Students can be given stories with description or narration and asked to change the narration and description in their own language and style. This develops their writing style and narrative techniques.

Detective stories are always a wholesome reading material for lawyers and students of law. It could also be used as an effective pedagogical tool for legal education and developing legal mind. The teacher can select a good detective story with complicated plot structure and intricate legalities. He/she can give the stories to the students to convert the fiction into moot cases. This enables the students think about a case or a law from various angles, drafting legal documents and representing a case from particular angle. The student also can draw inferences about the strengths and limitations of the case.

Drama: Drama is a unique genre of literature as it is a literary genre as well as a performing art. It is also one of the oldest genres of literature. It is a unique combination of writing, speaking, body language, theatrical arts like lights, positioning etc. Drama provides ample of scope for learning of law and justice. Many plays are written with court room as the setting or with the theme of justice, morality, social justice etc. The court room scene of 'The Merchants of Venice' is perhaps the most popular. Drama and law many a times complement each other. Many scenes in plays have been enacted as trial scenes or scenes of crime." A legal procedure can structure the dramatic action in an entire scene." [7]. Drama as a pedagogical tool for learning the skills of a lawyer is unique. The students can observe and learn body language, rhetoric, speech mechanism like tone, intonation and stress. If a student practises various roles in dramatics, he/she gradually masters the body language, speech delivery with its tones and intonations and same can be practised in court room, speeches and presentations. There are also many plays and films with court room scenes and students of law can view and re-enact these scenes to hone their skills. Performing a play also enables students to overcome stage fright and develop confidence. Performance or speech in front of an audience is considered as an extreme test of person's confidence and mind-matter-heart synchronicity. It also helps in opening out of an introvert or shy student.

These literary genres: quotes, poetry, story and drama can be put into performing

mode and be used as a pedagogical tool. A teacher has to use discretion in selecting them and in employing them in the class. The class can be divided into smaller groups for such activities so that the teacher can have an eye on individuals easily. If the tools are not employed effectively or in well planned manner, it may backfire and the interest of students may recede in the subject as well. Stepwise planning, the desired outcome and smaller groups are perhaps the keys to the success for using literature as an effective pedagogical tool for law education. "Law schools and law teachers should utilize small classes as opportunities for individualized instruction in fundamental lawyer skills." [8]

CONCLUSION

Literature and law share good amount of proximity in dealing with human predicament, situation, development of civilization and societal reforms. As both highlight human life, striving to make it better and society a more purposeful place to live in; one heralding and creating an abstract world and the other canalizing it through concrete and well defined structure be it in the form of rules or regulations, they can be studied in the light of this proximity.

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The concern for any law school curriculum or teacher is to develop an effective pedagogy. It is only through effective pedagogy and pedagogical tools and techniques the wisdom of the theories and concepts are inculcated in the students. The teacher's role become crucial as he/she has to translate these theories, literary genres into a practical tool for classroom activity, debate, thought provocation and facilitating development of wisdom. Law schools should provide instruction in those fundamental skills critical to lawyer competence. In addition to being able to analyze legal problems and do legal research, a competent lawyer must be able [to] effectively ... write, communicate orally, gather facts, interview, counsel, and negotiate. [9]

Thus, literature with all its varieties is a wonderful study for students of law but it is a challenge for the teacher to use it as an effective pedagogical tool facilitating the much needed skills to become a lawyer. A well designed pedagogy of literature study can remind the students of the rich humanity and humanitarian concepts and look beyond the case reports, judgements. It also ignites reflections on the contemporary meaning and role of law, criminality, punishment, justice in context to human predicament and changes in the society. Literature also provides models and material for rhetoric, oratory and developing communication skills of law students.

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